

## THE TOWNSHIP OF SOUTH STORMONT

Schedule "A" to By-law No. 2012-077	Effective Date: October 10, 2012
Title: Billing and Collection of Property Taxes	Department: Finance

### **SCOPE:**

This document is to provide guidance to staff and to provide a basis for decision-making relating to tax collection procedures for all property owners within the Township of South Stormont.

### **POLICY, PROCEDURES AND IMPLEMENTATION:**

#### **1.0 Purpose**

**1.1** The guidelines contained in this policy serve to supplement the provincial legislation that governs this area, especially for situations where a choice is provided, allowing for Council / Treasurer's discretion, and for issues when the legislation is silent. Legislation should be reviewed within the context of this policy; the *Municipal Act, S.O. 2001*, in particular, Parts VIII – Municipal Taxation, IX – Limitation on Taxes For Certain Property Classes, X – Tax Collection and XI – Sale of Land for Tax Arrears.

#### **2.0 Definitions**

**2.1** "Third party cheque" is defined to be a cheque payable to another party other than the Township of South Stormont.

**2.2** "Treasurer" is the person appointed by the municipality who is responsible for handling all of the financial affairs of the municipality on behalf of and in the manner directed by Council.

#### **3.0 Billing**

**3.1** A levying by-law passed by Council is required in advance of either an Interim or Final Tax billing.

**3.2** Interim tax billings will be based on 50% of the annualized taxes of the property for the previous calendar year. The interim tax billing will not include local improvement and special charges levied. Service area rates will be included in this calculation.

The interim tax billing will clearly identify the municipality, property and owner(s), the payment due date, the annualized assessment for the previous calendar year, the percentage used to calculate the interim taxes, and any arrears owing against the property.

- 3.3** Final tax billings are produced subsequent to the passing of the annual municipal budget and are based on the rates established by by-law from the budget requirements of the Township, the United Counties of Stormont Dundas and Glengarry and the Minister of Finance in relation to education. The final property tax billing will be calculated based on the phased-in assessed value for the current year as provided by the Municipal Property Assessment Corporation (MPAC), the appropriate tax rate, all local improvement charges, service area rates, and any special charges levied.

The final tax billing will clearly identify the municipality, property and owner(s), the payment due date(s) and any arrears owing against the property.

- 3.4** Supplementary billings will be processed upon receipt of updated information from MPAC. Supplementary billings will not be processed until the completion of the final tax billing. The calculation of any supplementary billing(s) is based on the tax rate established by by-law for the time period in which the billing represents for the Township, the Counties and the Minister of Finance.

- 3.5** As required by the *Municipal Act*, tax billings must be post-marked and mailed no later than twenty-one (21) calendar days prior to the date of the first installment due date; however, when possible, a 30-day notice will be provided.

- 3.6** Arrears are included in the first installment due date only. Installment due dates and the amounts due will be indicated on the payment stubs. Additional information regarding billing and payment methods may be on the face or reverse side of the tax bill.

#### **4.0 Due Dates**

- 4.1** Due dates for the payment of property taxes shall be dependent, in the case of the final bill, on the final approval of the budget by Council and the subsequent passing of the levying by-law. Notwithstanding fluctuations as a result of the budget approval or other unforeseeable delays, tax billings due dates will normally be as follows:

- Interim Bill: The last business day of March
- Final Bill: The last business day of June and September

**4.2** The specific due dates will be identified on the Interim and Final Levy By-Laws for the Township.

**4.3** Supplementary tax billings will have two (2) installments dates; the first at least thirty (30) days after processing and the second due at least ninety (90) days after processing. Installment due dates and the amounts will be indicated on the payment stubs.

## **5.0 Minimum bills**

**5.1** In accordance with the provisions permitted in the *Municipal Act*, Section 355(1), the Township may have a minimum tax bill at the amount approved by by-law and permitted under the Act. The amount levied in excess of the assessment times the tax rate becomes part of the general funds of the Township. The rationale behind this provision is to ensure the issuance of tax bills is cost effective.

## **6.0 Settlement of Accounts**

**6.1** Payment will be in the form of cash, cheques, money orders, bank drafts, preauthorized payment plan, internet and telephone banking and made payable to the Township of South Stormont. Cheques which are post-dated will be accepted and held by the Finance Department until the date indicated on the cheque. Payments of property taxes will be accepted at most major financial institutions, the Township of South Stormont Municipal Office, or via mail to:

Township of South Stormont  
2 Mille Roches Road  
P.O. Box 84  
Long Sault ON K0C 1P0

Taxpayers are responsible for any fees and charges that may be imposed on payments.

**6.2** Taxpayers whose property tax account is not in arrears may pay current taxes through ten (10) monthly pre-authorized electronic payments from January through October. Properties enrolled in this option are not subject to service fees or late payment charges for non-payment of taxes on the due dates.

**6.3** Taxpayers whose property tax account is not in arrears may pay current taxes through a pre-authorized electronic payment plan on the due date. Properties enrolled in this option are not subject to any service fees.

- 6.4** Taxpayers whose property tax account is in arrears may pay taxes through twelve (12) monthly pre-authorized payments in the amount directed by the property owners. Properties enrolled in this option are subject to penalty charges.
- 6.5** The Township staff may review from time to time other pre-authorized electronic payment plan options.
- 6.6** Third party cheques will not be accepted unless the cheque has been issued from another government agency. A cheque payable to the property owner and the Township of South Stormont is not considered to be a third party cheque and is to be accepted as payment.
- 6.7** Refunds will not be issued for cheques received in excess of the amount due. Credit balances resulting from an overpayment will be applied to installments not yet due. However, upon request, a refund cheque will be issued after sufficient time has passed for the payer's cheque to have cleared their financial institution.
- 6.8** After two (2) cheques within any twelve (12) month period is returned to the Township as non-sufficient funds (N.S.F) on a taxpayer's account, personal cheques from the taxpayer, for any financial transaction within the municipality, may not be accepted unless certified. This restriction will be in effect for a period of one (1) year. If there is a recurrence of two (2) N.S.F. cheques within a twelve (12) month period, cheques will no longer be accepted from the property owner, indefinitely, unless they are certified.
- 6.9** If two (2) pre-authorized payments within any twelve (12) month period are returned N.S.F. on a taxpayers account, enrollment in the pre-authorized payment plan will be terminated. The property owner may re-apply after a period of one (1) year. If there is a recurrence, of two (2) pre-authorized payments returned N.S.F., enrollment in the Pre-authorized payment plan will be terminated indefinitely.
- 6.10** Should payment of a tax account be tendered in U.S. funds, or other foreign currency, it will be accepted by the Township at the exchange rate established by the financial institution holding the accounts of the Township on that day.
- 6.11** Where post-dated cheques are submitted to the township and the payer requests that the cheque not be processed, the township should be contacted at least three (3) business days prior to the date of the cheque. If proper advance notice is not received, staff will attempt to retrieve the payment before it is processed and return the same to the payer. However, in circumstances where retrieval of the payment is not completed prior to the deposit being forwarded to the

financial institution, the payer will be encouraged to issue a stop payment on their cheque.

## **7.0 Collection – Payment Incentives**

**7.1** There are five basic incentives set out by legislation to promote timely payment of taxes as follows:

- Late Payment Charges
- Bailiff Action
- Collection Agency
- Attornment of Rent
- Tax Registration/Tax Sale

### **7.2** Late Payment Charges

The purpose of late payment charges is to persuade ratepayers to pay on time. The rate at which penalty and interest is charged is set by by-law and the *Municipal Act*, Section 345. This rate may be reviewed by the township each year, but cannot exceed the maximum percentage stated in the *Municipal Act*. Currently the percentage cannot exceed 1¼ per cent per month.

### **7.3** Bailiff Action

Section 349 of the *Municipal Act*, provides that property taxes may be recovered, with costs as a debt due to the township for the taxpayer originally assessed and from any subsequent owner of the assessed property or any part of it.

The township may issue a warrant to collect property taxes if the property taxes remain unpaid for a period of fourteen days or more after the installment due date. Further information regarding Bailiff Action is provided within this policy.

### **7.4** Collection Agency

Section 304 of the *Municipal Act* provides that if a municipality uses a collection agency under the *Collection Agency Act* to recover a debt, including taxes, the collection agency may recover its costs as long as the costs do not exceed the amount approved by the municipality. Further information regarding Collection Agency is provided within this policy.

### **7.5** Attornment of Rent

Under Section 350 of the *Municipal Act*, the township may seize the rents of an income producing property upon giving proper notice. It is a severe action and should only be initiated after adequate notice. Further information regarding Attornment of Rent is provided within this policy.

## **7.6** Tax Registration/Tax Sale

Properties that are in arrears for three (3) years or more are eligible for tax registration under the *Municipal Act*. The property owner or interested party has one year from the date of registration to redeem the property for all taxes, interest and penalty outstanding, including any associated costs. The Township solicitor or a contracted tax registration firm may be used to process the required statutory notices / declarations.

Registration is a last resort and should be avoided if possible by encouraging the ratepayer to either make full payment or a mutually agreed upon payment plan.

It is imperative that the schedule for registration be adhered to. Letters and correspondence forwarded to taxpayers should encourage payment. It should be considered as a last resort. Further information regarding tax sales is provided within this policy.

**7.7** Administration fees associated with any collection process are in addition to the charges by the third party firm completing the required statutory notices / declarations and shall be defined in the Fees and Charges By-law for the Township.

## **7.8** Additional Collection Tools

The following additional tools are available to assist in the collection of realty taxes:

- Reminder notices
- Forms or personalized letters
- Telephone follow-up
- Interviews
- Title Searches – Interested Party Notification

## **8.0 Steps of Collection Procedure**

**8.1** Any tax arrears at the time of either interim or final tax billing are included in the tax notice.

- 8.2** Reminder notices are to be mailed periodically and after each installment due date. Notices shall be mailed no later than the 15<sup>th</sup> day of the month. Reminder notices for \$ 5.00 or less are not processed. Based on the assumption that interim taxes are due the last business day of March and final taxes are due the last business day of June and September, staff are encouraged to issue reminder notices by the 15<sup>th</sup> of the following months.
- January and / or February
  - April and / or May
  - July
  - October
  - December
- 8.3** Any notices sent by ordinary mail are considered delivered to and received by the addressee unless an error in the mailing address is proven. Failure to notify the municipality of an address change in writing does not constitute an error. Section 343 of the *Municipal Act* states that tax bills shall be sent to the taxpayer's residence or place of business or to the premises where the taxes are payable for, unless the taxpayer directs the municipality otherwise. The direction for the delivery of tax bills continues until it is revoked in writing by the property owner or their representative.
- 8.4** Priority of tax accounts for collection is:
- (i) three (3) or more previous years outstanding
  - (ii) two (2) previous years outstanding
  - (iii) one (1) previous year outstanding
  - (iv) current year outstanding
- 8.5** For tax accounts which indicate previous years' taxes owing, a collection letter may be sent in the current year to the property owner(s) advising of the tax arrears situation and requesting payment in full or satisfactory payment arrangements be made by a given date. If acceptable payment arrangements are made, the account is monitored for compliance and follow-up is done by telephone or in writing as determined by the Treasurer.
- 8.6** Satisfactory payment arrangements could be;
- a series of post-dated cheques
  - a commitment to make payments on prearranged dates via preauthorized electronic payment plan or telephone or internet banking or in person.
- 8.7** If no reply is received from item 8.5 above, a second notice may be sent stating that failure to reply will result in further action being

taken to collect the outstanding taxes, and could result in additional costs to the property owner.

- 8.8** If no reply is received from item 8.7 above, a final notice may be sent by registered mail stating that failure to reply will result in further action including but not limited to the following possibilities:
- the account being forwarded to a bailiff to collect the outstanding taxes,
  - sub-search of title and contact mortgage holders and interested parties,
  - the use of a collection agency,
  - attornment of rent, or
  - proceed with the process of registration of a tax arrears certificate and eventually tax sale of the property as per the provisions of the *Municipal Act*, Part XI.

Costs associated with the preparation and mailing of the final notice will be added to the property tax account.

- 8.9** If there is no reply to the final notice, a sub-search of title may be done to obtain information on any mortgage holders or interested parties. The mortgage holder(s) is then notified in writing of the outstanding taxes and payment in full is requested. In most cases, the mortgage holder will pay the taxes or ensure the property owner does. These costs will be added to the property tax account. This option may be utilized at the discretion of the Treasurer.
- 8.10** A bailiff may be used if no reply to the final notice is received within 30 days of mailing or there is no response from the mortgage holder(s) and other interested parties. Costs associated for this action are the responsibility of the property owner and are deducted by the Bailiff, in accordance with legislation, prior to the remittance of payment to the municipality.
- 8.11** If an account is forwarded to a Bailiff for collection purposes, the property owner must deal directly with the Bailiff and make payments directly to the bailiff. The municipality should not accept payments from property owners in this case as it obscures the line of accountability and record keeping in regard to collection efforts and costs. This option shall be used at the discretion of the Treasurer.
- 8.12** A collection agency is available for use as a collection tool. If the account has been turned over to a bailiff, but there have been no results within 6 months, the account may be recalled. If the costs associated to the use of a collection agency are reasonable in relation to the assessed value of the land and the outstanding property taxes, the account may be assigned to a collection agency. The cost for this service will be added to the property tax account. At the discretion of

the Treasurer, if the costs of a collection agency are not reasonable in relation to the value of the land and taxes owing, this option may not be utilized.

- 8.13** Payments for accounts referred to a collection agency will be handled in compliance with the agreement with that agency.
- 8.14** If satisfactory payment arrangements have not been made on a property and the file has been forwarded to the bailiff or collection agency, it will be called back from the appropriate party and at the discretion of the Treasurer.
- 8.15** If the property is not vacant land, a site visit to the property may occur. The Treasurer or designate, along with a Municipal By-law Enforcement Officer will attend the property in attempt to make the property owner aware of the severe consequences should payment in full or satisfactory payment arrangements not be arranged. Costs associated with the site visit will be added to the tax account and payable by the property owner. This option may be utilized at the discretion of the Treasurer.
- 8.16** If rent attornment is chosen as a collection tool, the Treasurer will give written notice by registered mail to the tenant requiring the tenant to pay the rent, normally paid to the landlord, to the Township of South Stormont as it becomes due, until the amount of taxes due and any unpaid costs are paid in full. This option may be utilized at the discretion of the Treasurer.
- The tenant is required under section 350(1) of the *Municipal Act* to comply with this notice.
- 8.17** The Treasurer has the same authority as the landlord of the premises to collect the rent by seizure or otherwise to the amount of the taxes due and unpaid cost; but by collecting the rent the Township does not assume the responsibilities of the landlord.
- 8.18** Amounts paid as a result of rent attornment, may be deducted by the tenant from the rent paid to the landlord.
- 8.19** If the collection procedures as directed by the Treasurer do not achieve acceptable results of tax collection, the Township may proceed with registering a tax arrears certificate on the property. At that time, the provisions of the *Municipal Act* in relation to the tax sale process will be adhered to.
- 8.20** If an application is made to divide land that is assessed as one block into two or more parcels, and if each parcel can be legally conveyed

under the Planning Act, the application shall not proceed unless the tax account is current.

**8.21** All costs incurred for collection to obtain information and / or collect tax arrears are payable by the property owner and added to the tax account, Section 349(1) of the *Municipal Act*. These costs may include, but are not limited to:

- All title search fees,
- All corporate search fees,
- Registered mail,
- Administration charges, and
- All site visits.

## **9.0 Minimum Balance Write-off**

**9.1** In some circumstances there remains a balance owing on a ratepayers account after a payment is received. This is often as a result of interest being added to the account after a payment amount was verified and the cheque received shortly thereafter. When the remaining amount is small enough that the additional costs of collection would not be deemed worthwhile, it may be expedient to write off this amount. The township authorizes the Treasurer to approve such write-offs for outstanding amounts less than \$50.00.

## **10.0 Late Payment Charge Adjustments**

**10.1** Late payment charges are adjusted only in the following circumstances:

- Taxes are adjusted under Sections 354, 357, or 358 of the *Municipal Act*,
- Taxes are adjusted following an Assessment Review Board Decision,
- Taxes are adjusted in accordance with a decision of the Courts, or
- The interest or penalties were charged as a result of the township's error or omission.

For further information, contact:

Township of South Stormont  
PO Box 84, 2 Mille Roches Road  
Long Sault ON K0C 1P0  
(613) 534-8889  
(800) 265-3915